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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

2019 JUN 19 PM 12:40

PAMELA DIANE STARK,

Plaintiff,

vs.

CITY OF MEMPHIS; MAYOR JAMES STRICKLAND;
MEMPHIS POLICE DEPARTMENT DIRECTOR MICHAEL RALLINGS;
MEMPHIS POLICE DEPARTMENT DEPUTY CHIEF DON CROWE;
MEMPHIS POLICE DEPARTMENT LT. STEPHEN ROACH;
MEMPHIS POLICE DEPARTMENT SGT DANIEL CORDERO;
MEMPHIS POLICE DEPARTMENT OFFICER ERVIN (IBM 10098);
MEMPHIS CITY ATTORNEY BRUCE MCMULLEN;
ASSISTANT MEMPHIS CITY ATTORNEY ZAYID SALEEEM;
SHELBY COUNTY DISTRICT ATTORNEY AMY WEIRICH;
SHELBY COUNTY DEPUTY DISTRICT ATTORNEY RAYMOND LEPONE;
JOE STARK; MELISSA BERRY; MICHELLE CRAWFORD;
MEMPHIS POLICE DEPARTMENT OFFICERS JOHN DOE1-2,

CIVIL ACTION NUMBER:
JURY DEMANDED

19-2396

Defendants.

COMPLAINT FOR DAMAGES AND PERMANENT INJUNCTION

COMES NOW, Plaintiff Pamela Diane Stark, Pro Se, and files this Complaint for Damages and Permanent Injunction against Defendants and in support thereof would show the following:

I. INTRODUCTION

1. This Complaint arises out of Defendants attempts to harass, intimidate and prevent Plaintiff from making official allegations of domestic assault against a member of the Memphis Police Department and from making public the Memphis Police Department misconduct in so

doing. This Complaint is fourfold and avers: 1) Defendants, based on animus, intentionally singled Plaintiff out for disparate treatment and denied her the equal protection of law, 2) Defendants conspired to deny Plaintiff Due Process Rights guaranteed under the United States Constitution, 3) Defendants did conspire to abridge Plaintiff's Freedom of Speech as guaranteed under both the United States Constitution and the Tennessee State Constitution and 4) Defendants actions give rise to various tort actions under Tennessee State Law.

II. PARTIES

2. Plaintiff Pamela Diane Stark (hereinafter also referred to as "Plaintiff") is an adult resident of Memphis, Shelby County, Tennessee.

3. Defendant City of Memphis (hereinafter referred to as "City") is a municipal entity, located in Shelby County, Tennessee, recognized by the State of Tennessee as a properly organized and legal municipal entity, and can be served with process through its Chief Officer, Mayor Jim Strickland, at his office located at 125 North Main Street, Memphis, Tennessee.

4. Defendant Jim Strickland is an adult resident of Shelby County, Tennessee and at all relevant times was the Mayor of Memphis, acting in such capacity as an agent, servant and/or employee of the City of Memphis, Tennessee. Defendant Strickland is being sued in his individual as well as his official capacity and may be served with process at 125 North Main, Memphis, Tennessee.

5. Defendant Michal Rallings is an adult resident of Shelby County, Tennessee, and was at all relevant times Director of the Memphis Police Department (a subdivision of the City of Memphis), acting in such capacity as an agent, servant and/or employee of the City of

Memphis, Tennessee. Defendant Rallings is being sued in his individual as well as his official capacity and may be served with process at 170 North Main, Memphis, Tennessee.

6. Defendant Chief Don Crowe is an adult resident of Shelby County, Tennessee and at all relevant times was Deputy Chief of Information Technology with the Memphis Police Department (a subdivision of the City of Memphis), acting in such capacity as an agent, servant and/or employee of the City of Memphis, Tennessee. Defendant Crowe may be served with process at 170 North Main, Memphis, Tennessee.

7. Defendant Lt. Stephen Roach is an adult resident of Shelby County, Tennessee and at all relevant times was an Officer with the Memphis Police Department, acting in such capacity as an agent, servant and/or employee of the City of Memphis, Tennessee. Defendant Roach may be served with process at 1750 Madison, 5th Floor, Memphis, Tennessee.

8. Defendant Sgt. Daniel Cordero is an adult resident of Shelby County, Tennessee and at all relevant times was an Officer with the Memphis Police Department, acting in such capacity as an agent, servant and/or employee of the City of Memphis, Tennessee. Defendant Cordero may be served with process at 1750 Madison, 5th Floor, Memphis, Tennessee.

9. Defendant Officer Ervin is an adult resident of Shelby County, Tennessee and at all relevant times was an Officer with the Memphis Police Department, acting in such capacity as an agent, servant and/or employee of the City of Memphis, Tennessee.

10. Defendant Bruce McMullen is an adult resident of Shelby County, Tennessee and at all relevant times was the City Attorney for the Memphis City Attorney's Office (a subdivision of the City of Memphis), acting in such capacity as an agent, servant and/or employee of the City

of Memphis, Tennessee. Defendant McMullen is being sued in his individual as well as his official capacity and may be served with process at 123 North Main, Memphis, Tennessee.

11. Defendant Zayid Saleem is an adult resident of Shelby County, Tennessee and at all relevant times was an Attorney for the Memphis City Attorney's Office (a subdivision of the City of Memphis), acting in such capacity as an agent, servant and/or employee of the City of Memphis, Tennessee. Defendant may be served with process at 123 North Main, Memphis, Tennessee.

12. Defendant Amy Weirich is an adult resident of Shelby County, Tennessee and at all relevant times was the District Attorney General for the Shelby County District Attorney General's Office acting in such capacity as an agent, servant and/or employee of the Shelby County District Attorney General Office. Defendant may be served with process at 201 Poplar, 11th Floor, Memphis, Tennessee.

13. Defendant Raymond Lepone is an adult resident of Shelby County, Tennessee and at all relevant times was the Deputy District Attorney General for the Shelby County District Attorney General Office, acting in such capacity as an agent, servant and/or employee of the Shelby County District Attorney General Office. Defendant may be served with process at 201 Poplar, 11th Floor, Memphis, Tennessee.

14. Defendant Joe Stark is an adult resident of Shelby County, Tennessee and may be served with process at 397 Enquirer Court #104, Cordova, Tennessee.

15. Defendant Melissa Berry is an adult resident of Shelby County, Tennessee and may be served with process at 5050 Poplar, Suite 1616, Memphis, Tennessee.

16. Defendant Michelle Crawford is an adult resident of Shelby County, Tennessee and may be served with process at 5050 Poplar, Suite 1616, Memphis, Tennessee.

17. Defendant John Doe 1 at all relevant time was a member of the Memphis Police Department, whose identity is known to the Memphis Police Department (a subdivision of the City of Memphis), acting in such capacity as an agent, servant and/or employee of the Memphis Police Department and may be served through Michael Rallings at 170 North Main, Memphis, Tennessee.

18. Defendant John Doe 2 at all relevant time was a member of the Memphis Police Department, whose identity is known to the Memphis Police Department (a subdivision of the City of Memphis), acting in such capacity as an agent, servant and/or employee of the Memphis Police Department and may be served through Michael Rallings at 170 North Main, Memphis, Tennessee.

III. JURISDICTION AND VENUE

19. The wrongful acts, omissions and injuries described in the body of this Complaint all occurred in Memphis, Shelby County, Tennessee and venue is appropriate in this judicial district pursuant to 28 U.S.C. § 1391.

20. The jurisdiction of this lawsuit is proper in the United States District Court for the Western District of Tennessee, Western Division. Jurisdiction lies with this Court pursuant to 28 U.S.C. § 1331 and 1343 and supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

21. This action is brought pursuant to 42 U.S.C. §1983, 42 U.S.C. § 1985 and various other state laws and the common law.

IV. RELEVANT FACTS

Domestic Assault Investigation

22. Plaintiff was, at relevant times, employed as an Assistant District Attorney with the Shelby County District Attorney General, hereinafter "SCDAG" and assigned to the MPD Tillman Precinct as a community prosecutor.

23. Plaintiff is married to Defendant Joe Stark a Sergeant assigned to the homicide division of the Memphis Police Department (hereinafter "MPD").

24. On June 17, 2018, Plaintiff was injured by Defendant Stark while he was throwing Plaintiff's clothing over the second story balcony of Plaintiff's home. Plaintiff's home is located at 673 N. McLean Blvd, Memphis, Tennessee.

25. On or about June 25, 2018, Defendant Stark had Defendant Ervin dispatched to 170 N. Main, Memphis, Tennessee (MPD's Homicide Bureau) and filed a police report concerning the events of June 17, 2018 in an effort to prevent Plaintiff from filing domestic violence charges against him. Defendant Stark provided no identifying information about Plaintiff other than "his Wife" or any contact information for Plaintiff. Within this report, Defendant Stark told Defendant Ervin that Plaintiff had been injured during a domestic dispute with Defendant Stark on June 17, 2018 and that she was alleging domestic assault had occurred.

26. The report taken by Defendant Ervin was designate a "memo" and no efforts where taken to locate Plaintiff or check on her injuries or well-being.

27. Based on MPD policies, procedures and practices, "memos" are not investigated.

28. On or about June 25, 2018, John Doe 1 (a high-ranking member of MPD) went to Plaintiff's place of employment (SCDAG) and spoke with Plaintiff's supervisor, Defendant Lepone, requesting and encouraging that the events of June 17, 2018 be kept unofficial.

29. As a result of MPD's meeting with Defendant Lepone, SCDAG office recuse itself from the investigation and prosecution of the events of June 17, 2018 should they arise.

30. On or about June 26, 2018, MPD's reporting system rejected the "memo" status of the incident reported by Defendant Stark based on mandatory reporting laws due to Plaintiff's injuries.

31. On or about June 26, 2018, MPD researched Defendant Stark's "Wife" and named Plaintiff as a suspect in a domestic assault investigation.

32. On or about June 27, 2018, John Doe 2 (an investigator assigned to MPD's Domestic Violence Unit) went to Defendant Lepone's office to consult him about charges arising out of the events of June 17, 2018. Defendant Lepone contacted Chief Shearin with MPD and John Doe 2 was removed from the investigation.

33. On or about June 28, 2018, Plaintiff was summoned to Defendant Lepone's office for a "wellness check." The "wellness check" basically consisted of "encouraging" Plaintiff to make sure the events on June 17, 2018 remained a "memo" and informing Plaintiff that SCDAG had

recused itself from advising, reviewing or prosecuting any domestic violence investigation should it arise.

34. On or about June 29, 2018, Plaintiff was contacted by Defendant Cordero a sergeant assigned to the domestic violence unit of MPD.

35. On July 1, 2018, Plaintiff met with Defendant Cordero and gave an audio-recorded suspect/victim statement pertaining to the events on June 17, 2018. During his meeting with Plaintiff, Defendant Cordero refused to take the names of witnesses, a copy of a photograph detailing injuries of Plaintiff, or visit the scene as requested by Plaintiff. Defendant Cordero informed Plaintiff that he believed her statements concerning the incident and that Defendant Stark had not only refused to give an official statement but also denied being the victim of anything.

36. On or about July 9, 2018, Plaintiff learned that MPD had designated her as the suspect and Defendant Stark as the complainant and victim of a domestic assault and marked the report as "confidential" or blocked all other information from view except by specifically designated persons.

37. On or about July 9, 2018, Defendant Cordero and Defendant Roach, Lieutenant assigned to MPD domestic violence unit, told Plaintiff that the designation and/or publication of this report would be changed per Defendant Crowe. Defendant Crowe is Deputy Chief over MPD Information Technology and had the ability to change the designation and/or publication of this report. These designations were never changed.

38. On or about July 16, 2018, Defendant Cordero and Defendant Roach refused to take a domestic violence report from Plaintiff concerning the events of June 17, 2018.

39. On or about August 2018, the Twenty-Eight District, District Attorney General was assigned to handle proceedings concerning the events of June 17, 2018 wherein Plaintiff was listed as the suspect.

40. On or about November 15, 2018, Plaintiff informed Defendant Lepone of the issues arising from MPD's investigation of the events of June 17, 2018.

41. On or about November 19, 2018, Plaintiff informed Defendant Weirich of the issues arising from MPD's investigation of the events of June 17, 2018.

42. On or about November 19, 2018, Plaintiff, at the direction of Defendants Lepone and Weirich, spoke with Assistant District Attorney Jennifer McEwen (28th District) concerning problems relating to the MPD investigation of domestic assault and learned that ADA McEwen was in contact with Defendant Stark who was still being considered as a potential victim. Plaintiff discontinued further contact with Ms. McEwen given the appearance of impropriety arising from Plaintiff being both a suspect and a fellow prosecutor. Plaintiff immediately notified Defendant Lepone of the situation. Defendant Lepone agreed that there was a strong appearance of impropriety should Plaintiff continue to communicate with ADA McEwen.

43. On December 15, 2018 Plaintiff requested the SCDAG contact an outside agency to investigate wrongdoing by MPD concerning investigation of the events of June 17, 2018. Plaintiff's request for an outside investigation remain unanswered.

44. On February 3, 2019, Plaintiff made an official request to Defendant Lepone for a Prosecutor Pro Tem to investigate police misconduct charges against MPD. Plaintiff's request for Prosecutor Pro Tem remains unanswered.

45. On January 7, 2019, Plaintiff contacted Defendant Strickland, City of Memphis, concerning her allegations of police misconduct. Defendant Strickland responded to Plaintiff's complaints by indicating that he was forwarding the information to Defendant McMullin, Memphis City Attorney Office.

46. On or after, January 7, 2019, Defendant Strickland, or someone acting on his behalf, forwarded a copy of Plaintiff's January 7, 2019 letter to SCDAG, Plaintiff's employer.

Interference with Civil Complaint

47. On June 29, 2018, Plaintiff filed Complaint for Absolute Divorce in the Circuit Court of Shelby County, Division VIII.

48. On November 28, 2018, Plaintiff amended her divorce complaint to include the tort of battery.

49. On January 3, 2019, Plaintiff filed Notice of Taking Depositions and cause subpoenas to issues for Defendant Stark, Defendant Cordero and three other MPD officers involved in the investigation of the events of June 17, 2019.

50. On January 23, 2019, Memphis City Attorney's Office, by and through Defendant McMullen and Defendant Saleem, filed Motion to Quash requesting the Court not only quash the subpoenas issued for deposition on January 25, 2019, but also prohibit Plaintiff from

deposing any witnesses or investigators or reviewing any materials from the investigation into the events of June 17, 2018.

51. On or about January 25, 2019, Defendant Berry informed Plaintiff that the City Attorney's Office intended to be present during Plaintiff's deposition of police officers should Plaintiff be allowed to proceed with such depositions.

Facebook Post and Restraining Order

52. On December 14, 2018, Plaintiff posted on Facebook commentary concerning the propriety of law enforcement investigating cases where members of their own department may face criminal and/or civil liabilities referencing Plaintiff's own experience with MPD's investigation of the events of June 17, 2018.

53. On or about December 15, 2018 various members of MPD contacted Deputy Lepone concerning Plaintiff's Facebook post. In response, Deputy Lepone began a pattern of harassing and intimidating communications with Plaintiff in an effort to have Plaintiff remove the Facebook post and drop her allegations against Defendant Stark and MPD.

54. On January 9, 2019, Defendant Berry substituted in as counsel for Defendant Stark in the divorce proceedings. Defendant Berry's husband is an employee of the City of Memphis.

55. On January 15, 2019, Defendant Berry filed a Petition for Restraining Order requesting that Plaintiff be required to remove Facebook post of December 14, 2018 and be enjoined from making future post or oral comments which might jeopardize Defendant Stark's employment or impugn his reputation with MPD. This petition was premised on the potential of MPD

retaliating against Defendant Stark due to Plaintiff's public allegations against the MPD investigation. Defendant Berry, however, was in communication with the Memphis City Attorney's Office concerning the litigation of this Petition.

56. On February 7, 2019, a hearing on Defendant Berry's Petition for Restraining Order was held before Judge Weiss, Shelby County Circuit Court Judge for Division 8 with Defendant Crawford acting as counsel.

57. A member of the Memphis City Attorney's Office was present at the hearing on Petition for Restraining Order.

58. Defendant Stark testified at hearing on Petition for Restraining Order that both MPD and Mayor Strickland were his employers and requested the Court enjoin Plaintiff from making any public statements about either himself or his employers.

59. During the hearing on Petition for Restraining Order, Defendant Crawford argued that Plaintiff be required to remove the Facebook post and be enjoined from "making any disparaging remarks about Defendant Stark or MPD's alleged corruption in any public form, and social media or to anyone." It was again argued that MPD might retaliate against Defendant Stark due to Plaintiff's allegations of misconduct during MPD's investigation.

60. On February 7, 2019, Judge Weiss ruled from the bench that Plaintiff was to have no communication with MPD or Defendant Strickland and took Plaintiff into custody for stating that she would not remove the Facebook post or comply with the Court's ruling. Plaintiff was held in handcuffs for approximately four (4) hours until she agreed to remove the Facebook post.

61. On or about February 8, 2019, Defendant Lepone summoned Plaintiff into his office and again harassed and intimidated Plaintiff in an attempt to get Plaintiff to drop her allegations against Defendant Stark and MPD.

62. On February 13, 2019, Judge Weiss entered an Order of Petition for Restraining Order requiring Plaintiff to remove the Facebook post and enjoining Plaintiff from "making any other public allegation against ... Joe Stark on social media (on any platform) or to his employer which may affect ...[Joe Stark's] reputation or employment. This Order further held that both the Facebook Post and the Letter to Mayor Strickland violated the Mandatory Injunction filed with Divorce Complaint on June 29, 2019.

63. On or about February 15, 2019, Plaintiff was contacted by the FBI regarding a complaint she had filed concerning official misconduct by MPD; however, as Plaintiff had not been given notice of Judge Weiss' official rulings on the Petition for Restraining Order, Plaintiff could not meet with them out of fear of additional contempt findings and incarceration.

64. On March 8, 2019, Defendant Berry filed a Motion to Amend Order of Petition for Restraining Order to Conform to Transcript in an effort to have said Restraining Order include Judge Weiss' ruling from the bench enjoining Plaintiff from any contact with MPD or Mayor Strickland and that Plaintiff was in contempt of court for having made said Facebook post

Interference with Plaintiff Employment

65. On or about February 6, 2019, Plaintiff learned that Defendant Stark had interfered with Plaintiff's ability to proceed with a first-degree murder prosecution by causing Sgt. Gladys Burton, MPD Homicide Bureau, to refuse to attend and testify in a motion to suppress

defendant's statement if Plaintiff was involved. MPD was aware of the actions of both Defendant Stark and Sgt. Burton.

66. On or about February 7, 2019, MPD banned Plaintiff from police occupied property including Tillman Precinct where Plaintiff was assigned. Per the MPD ban placed against Plaintiff, Plaintiff would only be allowed to obtain her personal property from her office at MPD Tillman Precinct under a police escort.

67. On or about February 8, 2019, Plaintiff became aware that Detective Frias, the sole remaining witness in Plaintiff's attempt to defend against the motion to suppress defendant's statement, became suddenly unavailable for the motion to suppress hearing set February 13, 2019. Defendant Stark had testified on February 7, 2019 that a homicide detective had "liked" Plaintiff's Facebook post. Detective Frias is the sole MPD officer who reacted to said post.

68. Plaintiff was unable to inform employers of MPD's behavior concerning the motion to suppress due to Judge Weiss' ruling from the bench on the Petition for Restraining Order and fear of additional contempt findings and incarceration.

69. On or about February 9, 2019, Plaintiff tendered thirty-day notice to SCDAG based on MPD's behavior creating a moral and ethical conflict with Plaintiff's ability to perform her duties as an Assistant District Attorney.

70. On or about February 13, 2019, Defendant Weirich accepted Plaintiff's resignation making it effective immediately.

V. EQUAL PROTECTION VIOLATION

71. Defendants did intentionally single Plaintiff out for disparate treatment based on animus and in retaliation for Plaintiff making domestic assault allegations against a member of MPD. This disparate treatment denied Plaintiff the equal protection of laws afforded to protect the rights of alleged victims of domestic violence.

VI. CLAIM ONE

(42 U.S.C. § 1983 AND 42 U.S.C. § 1985)

Domestic Assault

72. Plaintiff repeats and realleges the allegations and averments of paragraph 1-71 as if fully set forth herein.

73. Defendants City, Strickland, Rallings, Crowe, Roach, Cordero, Ervin, Lepone, Weirich, John Doe 1 and John Doe 2 did deprive Plaintiff equal protection of the laws promulgated to protect the rights of victims alleging domestic assault by singling out Plaintiff for disparate treatment contrary to that enjoyed by other alleged victims of domestic violence and to the laws of the State of Tennessee.

74. This disparate treatment was intentional and based on animus and retaliation for Plaintiff making allegations against a member of MPD and served no legitimate rational basis nor public interest.

75. This disparate treatment includes denying Plaintiff the ability to report her allegations of assault by 1) attempting, in direct opposition to State law and MPD reporting policies, to have

Plaintiff's allegations relegated to a mere "memo" status, 2) contacting Plaintiff's employer in an attempt to harass and intimidate Plaintiff into not reporting her allegations of domestic assault, 3) designating Plaintiff as the "suspect" when MPD's reporting system rejected the "memo" status attached to the events of June 17, 2019 based on her injuries 4) refusing to appropriately investigate Plaintiff's allegations of domestic assault, and 5) refusing to take a domestic violence report from Plaintiff.

76. As it pertains to Defendants Cordero, Crowe, Ervin, Roach, John Doe 1 and John Doe 2, Plaintiff avers that their acts and/or omissions, alleged within this complaint, including but not limited to their individual actions and their failure to intervene in the action of other Defendants, deprived Plaintiff the equal protection of law.

77. As it pertains to Defendant Rallings, Plaintiff alleges that the actions of the members of MPD in violation of Plaintiff's rights were known to Defendant Rallings and either directed, in whole or in part, by him and/or explicitly or implicitly approved and encouraged by him.

78. As it pertains to Defendant Stark, Plaintiff alleges that Defendant used his official position to garner preferential treatment and did conspire with other MPD officers within their official duties to abridge Plaintiff the equal protection of law.

79. As it pertains to Defendants Lepone and Weirich, Plaintiff alleges that the acts and/or omissions, alleged within this complaint, including but not limited to their individual actions and their failure to intervene in the action of other Defendants, deprived Plaintiff the equal protection of law and the rights specifically granted to all alleged victims of domestic violence under State law. See **T.C.A. 36-3-619 (g)(3)(1)**.

80. In the alternative, Defendants Lepone and Weirich did further conspire with other named Defendants to deny Plaintiff the equal protection of law and did act in furtherance of that conspiracy by harassing and intimidating Plaintiff in an effort to prevent Plaintiff from reporting her allegations of domestic assault.

81. Plaintiff further avers, as it pertains to Defendant Weirich, the actions and/or omissions of Defendant Lepone, individually and in conspiracy with members of MPD, in violations of Plaintiff's rights were known to Defendant Weirich and were either directed, in whole or in part, by her and/or explicitly or implicitly approved and encouraged by her.

82. As it pertains to Defendant Strickland, Plaintiff avers that the actions and/or omissions of members of MPD in violations of Plaintiff's rights were known to him and he failed to take appropriate measure to intervene having a duty to do so.

VII. DUE PROCESS VIOLATION

(42 U.S.C. § 1983 AND 42 U.S.C. § 1985)

83. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits state actors from abusing governmental power or employing it as an instrument of oppression.

84. As a barrier against the abusive and oppressive powers of government, every citizen is insured under the Fourteenth Amendment to the United States Constitution access to redress for wrongs committed against them.

85. Defendants violated Plaintiff's Due Process Right by 1) official oppression, 2) denying Plaintiff access to redress under domestic violence law, 3) by interfering with Plaintiff's right to civil redress, and 4) by interfering with Plaintiff's rights to redress for official misconduct.

VIII. CLAIM TWO

Governmental Oppression

86. Plaintiff repeats and realleges the allegations and averments of paragraph 1-85 as if fully set forth herein.

87. Defendants City, Strickland, Rallings, Crowe, Roach, Cordero, Ervin, McMullen, Saleem, Weirich, Lepone, Stark, John Doe 1 and John Doe 2, acting both individually and in concert with each other, did conspire to intimidate and harass Plaintiff by abusing the governmental power entrusted them and applying it as an instrument of oppression. These actions violate 42 U.S.C. section 1983 and section 1985.

IX. CLAIM THREE

Domestic Assault Laws

88. Plaintiff repeats and realleges the allegations and averments of paragraph 1-87 as if fully set forth herein.

89. Defendants City, Strickland, Rallings, Crowe, Roach, Cordero, Ervin, Weirich, Lepone, Stark, John Doe 1 and John Doe 2, acting both individually and in concert with each other, did conspire to deny Plaintiff the right to redress of her allegations of domestic assault. These actions violated 42 U.S.C. section 1983 and section 1985.

X. CLAIM FOUR

Civil Litigation

90. Plaintiff repeats and realleges the allegations and averments of paragraph 1-89 as if fully set forth herein.

91. Defendant City, McMullen, Saleem and Strickland did deprive Plaintiff due process of the laws promulgate to protect the rights of civil litigant to obtain relevant discovery and testimony through which to prosecute their actions by interfering in Plaintiff's civil complaint against Defendant Stark.

92. These actions were intentional, retaliatory and gauged to prevent Plaintiff making domestic assault allegations against a member of MPD and official misconduct allegations against MPD and served no legitimate rational basis nor public interest.

93. The Motion to Quash filed by Defendants McMullen and Saleem was nothing more than an attempt to prevent Plaintiff from obtaining relevant discovery and testimony in her pending civil litigation. The City of Memphis is not a party to that litigation and as such the City Attorney's Office has no legitimate basis for filing said motion nor would they have except for Plaintiff's allegations of domestic assault against an MPD officer and/or allegations of official misconduct by MPD.

94. Further, the Motions to Quash filed by Defendants were premised on Tennessee Rules of Criminal Procedure and Tennessee Public Records Act, neither of which are relevant to civil procedures governing Plaintiff's subpoenas for depositions nor subpoena duces tecum in her civil complaint against Defendant Stark. Likewise, even if these rules of law were relevant,

neither would have served as a bar to Plaintiff subpoenas. This action was neither based on mistake nor accident but gauged specifically to harass and intimidate Plaintiff and to prevent Plaintiff access to relevant discovery in violation of due process.

95. The intentional and improper motives of Defendants McMullen and Saleem are further supported by their stated intent to be present should Plaintiff be allowed to proceed with her depositions. The City of Memphis does not provide legal representation for MPD officers who are witnesses in civil proceedings in which the City is not a party. Thus, Defendants actions were served no lawful purpose within their duties with the City Attorney's Office and was gauged to further harass and intimidate Plaintiff in an effort to deny her due process as a civil litigant.

96. As it pertains to Defendant Strickland, Plaintiff alleges that the actions of the members of the City Attorney's Office, in violation of Plaintiff's rights, were known to Defendant Strickland and either directed, in whole or in part, by him and/or explicitly or implicitly approved and encouraged by him.

XI. CLAIM FIVE

Official Misconduct

97. Plaintiff repeats and realleges the allegations and averments of paragraph 1-96 as if fully set forth herein.

98. Defendants City, Strickland, Rallings, McMullen, Saleem, Weirich, Lepone, Berry, Crawford and Stark, acting both individually and in concert with each other, did conspire to

deny Plaintiff the right to redress of her allegations of official misconduct. These actions violated 42 U.S.C. section 1983 and section 1985.

XII. FREEDOM OF SPEECH VIOLATION

99. Defendants' actions, both individually and in conspiracy with each other, violated Plaintiff's Rights to Freedom of Speech both under the United States Constitution and the Tennessee Constitution.

XIII. CLAIM SIX

(42 U.S.C. § 1983 AND 42 U.S.C. 1985)

100. Plaintiff repeats and realleges the allegations and averments of paragraph 1-99 as if fully set forth herein.

101. Defendants Rallings and Strickland did conspire with Defendant Lepone and Weirich to abridge Plaintiff's First Amendment rights by harassing and intimidating Plaintiff in an attempt to have her remove her Facebook post of December 14, 2018.

102. Plaintiff further avers, as it pertains to Defendant Weirich, the actions and/or omissions of Defendant Lepone, individually and in conspiracy with members of MPD, in violations of Plaintiff's rights were known to Defendant Weirich and were either directed, in whole or in part, by her and/or explicitly or implicitly approved and encouraged by her.

103. Having no legitimate legal ability to force Plaintiff to remove her Facebook post, Defendants City, McMullen and Saleem conspired with Defendants Berry, Crawford and Stark in

an effort to have Plaintiff required to removed said post and enjoined from making future allegations concerning the misconduct of MPD.

104. Plaintiff further avers, as it pertains to Defendant Strickland, the actions and/or omissions of Defendant McMullen and Saleem, individually and in conspiracy with Defendants Berry, Crawford and Stark, in violations of Plaintiff's rights were known to Defendant Strickland and were either directed, in whole or in part, by her and/or explicitly or implicitly approved and encouraged by him.

105. Defendants Berry, Crawford and Stark did through their actions of litigating the Petition for Restraining Order and the Petition to Amend Order on Petition for Restraining Order did abridge Plaintiff's freedom of speech. This abridgement extended beyond any statements concerning Defendant Stark and attempted, impermissibly and without lawful or legitimate reason, to prohibit Plaintiff from publicly disclosing her allegations of official misconduct by MPD. This action, in whole or in part, was intended to further Defendants City, Strickland, Rallings, McMullen and Saleem attempts to prevent Plaintiff's allegation of official misconduct from becoming public.

106. Defendants Berry, Crawford and Stark's litigation of the Petition for Restraining Order alleged that Mr. Stark feared MPD would, among other things, terminate his employment in an effort to avoid a public scandal. However, Defendants recourse under this scenario would be against MPD, and did not allow Defendants to sacrifice Plaintiff's rights for any Defendant's Stark may have had.

107. Further support of Defendants Berry, Crawford and Stark's intent to act in furtherance of MPD attempts to abridge Plaintiff's First Amendment Rights is found in the fact that Defendant Berry, as an agent of Defendant Stark, did directly communicate with the City Attorney's Office concerning the litigation of said Restraining Order. The City Attorney's Office had no legitimate or lawful interest in this action.

108. Defendants above stated actions did further chill Plaintiff's First Amendment Rights as out of fear of additional contempt proceedings and incarceration Plaintiff was unable to initially meet with the Federal Bureau of Investigation Agents concerning allegations of official misconduct by MPD or communicate the actions of MPD as it pertained to Plaintiff's ability to prosecute a first degree murder case to her employers.

XIV. CLAIM SEVEN

109. Plaintiff repeats and realleges the allegations and averments of paragraph 1-108 as if fully set forth herein.

110. Article 1, section 19 of the Tennessee Constitution provides:

The free communication of thoughts and opinion, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject...

111. Defendants City, Strickland, Rallings, McMullen, Saleem, Lepone, Weirich, Berry, Crawford and Stark actions did abridge Plaintiff's right to freedom of speech and expression as

guaranteed by Article 1, section 19 of the Tennessee Constitution and is wholly without justification.

XV. SUPERVISORY LIABILITY

112. Plaintiff repeats and realleges the allegations and averments of paragraph 1-111 as if fully set forth herein.

113. Plaintiff avers that MPD has a pervasive environment and/or culture of civil rights abuse, including the covering up of and/or failure to investigate criminal activities of MPD officers, that existed within the ranks of MPD on and prior to June 17, 2018. Defendant Rallings knew that such an environment or culture existed yet failed to take reasonable and appropriate remedial action. In particular, that Defendant Rallings, having a duty to do so, failed to train, supervise, discipline, reassign or fire officers who participate or acquiesce in the previously described culture of civil rights abuse, and those who failed in their duty to intervene and/or report acts of official misconduct in conjunction with such acts and/or omissions. These failures constitute a deliberate indifference to the violation of constitutional rights by members of MPD and were the proximate cause of the injuries suffered by Plaintiff.

114. Plaintiff avers that MPD has a pervasive environment and/or culture of civil rights abuse, including the covering up of and/or failure to investigate criminal activities of MPD officers, that existed within the ranks of MPD on and prior to June 17, 2019. Defendant Strickland knew that such an environment or culture existed yet failed to take reasonable and appropriate remedial action. In particular, Defendant Strickland, having a duty to do so, failed to properly supervise his appointed Police Director to insure protection from such abuses. This failure constitutes a

deliberate indifference to the violation of constitutional rights by members of MPD and was the proximate cause of the injuries suffered by Plaintiff.

115. Plaintiff further avers that Defendant Weirich was aware of the existence of a pervasive environment and/or culture of civil rights abuse, including the covering up of and/or failure to investigate criminal activities of officers, within the ranks of MPD on and prior to June 17, 2018. Further, Defendant Weirich was aware that members of SCDAG was often complicit in this environment or culture of abuse and did participate implicitly or explicitly in said behavior. As Shelby County District Attorney General, Defendant Weirich failed to properly train, supervise or take other reasonable and appropriate remedial actions which are within her official authority. These failures constitute a deliberate indifference to the violation of constitutional rights by members of MPD and members of SCDAG and were the proximate cause of the injuries suffered by Plaintiff.

XVI. MUNICIPAL LIABILITY

116. Plaintiff repeats and realleges the allegations and averments of paragraph 1-115 as if fully set forth herein.

117. The policies, customs, and/or practices of the City of Memphis, Tennessee caused the constitutional injuries suffered by Plaintiff.

118. The City of Memphis, Tennessee failed to properly oversee MPD and the City Attorney's Office supervisors, failed to ensure that MPD and the City Attorney's Office hired appropriate supervisors, failed to ensure that MPD and the City Attorney's Office implemented sufficient policies and procedures to safeguard against the constitutional injuries suffered by Plaintiff, and

failed to ensure that MPD and the City Attorney's Office was properly training their members regarding official misconduct including the covering up of and/or failure to investigate criminal activities of members of MPD and the associated retaliatory actions.

119. Plaintiff's suffered damages as a reasonably foreseeable result of the actions and inactions of the City of Memphis, Tennessee.

XVII. TORT ACTIONS

120. Defendants' actions did further give rise to tort actions 1) Infliction of Emotional Distress, 2) Interference with Employment Contracts/Relations and 3) Invasion of Privacy: False Light

XVIII. CLAIM EIGHT

(Infliction of Emotional Distress)

121. Plaintiff repeats and realleges the allegations and averments of paragraph 1-120 as if fully set forth herein.

122. Defendants Strickland, Rallings, Crowe, McMullen, Saleem, Lepone, Weirich and Stark behavior as detailed within this complaint were intentional and outrageous to the extent they should not be tolerated by a civilized society.

123. Defendants actions did result in serious mental injury to Plaintiff.

XIX. CLAIM NINE

(Interference with Employment Contracts/Relations)

124. Plaintiff repeats and realleges the allegations and averments of paragraph 1-123 as if fully set forth herein.

125. Defendants City, Strickland, Rallings, and Stark did intentionally interfere with Plaintiff's business or employment relationship by causing or allowing MPD officers to not show up for proceedings in which Plaintiff was involved.

126. This interference was not only intentional but was calculated to harass, intimidate and retaliate against Plaintiff for making allegations of official misconduct against MPD.

127. Because of the potential ramifications of Defendants' actions, Plaintiff was morally and ethically bound to resign her position with the Shelby County District Attorneys office.

XX. CLAIM TEN

(Invasion of Privacy: False Light)

128. Plaintiff repeats and realleges the allegations and averments of paragraph 1-127 as if fully set forth herein.

129. Defendant City, Rallings, Crowe, Cordero and John Doe 2 did intentionally and with malice invade Plaintiff's privacy and publish information concerning the events of June 17, 2018 in such manner as to place Plaintiff in a false light which was both highly offensive and potentially damaging to Plaintiff's professional reputation.

130. These actions were intentional and done with malice in an attempt to prevent Plaintiff from making official allegations against a member of MPD.

131. This information was published in MPD reporting system and available to all members of law enforcement as well as prosecutors, victim witness coordinators and investigators working at SCDAG, in short almost every person with whom Plaintiff associated.

132. Plaintiff did suffer mental anguish as a result of this publication.

XXI. HARM TO PLAINTIFF

133. Plaintiff, as a result of Defendants behavior in violation of her constitutional rights and their tortious conduct, was forced to resign her position with the Shelby County District Attorney Office as did suffer 1) loss of income and benefits and 2) a tremendous reduction in Plaintiff's pension benefits.

134. Prior to Plaintiff resigning her position, Plaintiff missed days of work defending herself against the actions of Defendants in violation of Plaintiff's constitutional rights and their tortious conduct. Plaintiff further missed days of work due to the emotional strain Defendants' actions placed on Plaintiff.

135. At all times relevant hereto, Plaintiff experienced severe anxiety and depression resulting in substantial weight loss, sleep disfunction and panic attacks.

136. Plaintiff is still experiencing severe anxiety and depression which has resulted in limiting her ability to work and thereby affecting her economically.

XXII. REQUEST FOR PERMANENT INJUNCTION

137. Plaintiff repeats and realleges the allegations and averments of paragraph 1-136 as if fully set forth herein.

138. Plaintiff respectfully requests that a permanent injunction restraining and prohibiting Defendant's from listing Plaintiff as a suspect in a domestic violence assault in conjunction with the events of June 17, 2018.

139. Plaintiff respectfully requests that a permanent injunction restraining and prohibiting Defendant's from continuing or enforcing the Restraining Order entered by Judge Weiss against Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands that a jury be empaneled to try the issues raised herein which are properly triable before a jury of their peers and prays for a judgment against the Defendants referenced above for the following:

- (1) Compensatory damages in an amount the jury may determine just and proper under the circumstances and/or which may be permitted by law;
- (2) Punitive damages in an amount the jury may determine just and proper under the circumstances and/or which may be permitted by law;
- (3) Pre and Post Judgment interest;
- (4) Discretionary costs;
- (5) All such further relief, both general and specific, to which Plaintiff may be entitled or to which she may show herself to be entitled.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "J. Weiss", is written over the text "Respectfully submitted,".

Pamela Diane Stark
673 N. McLean Blvd.
Memphis, Tennessee 38107
901-488-5817
pamand3ds@aol.com

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JOHN T. FOWLKES, JR.

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TU M. PHAM

Court Name: US District Court - TNW
Division: E
Receipt Number: M4676042493
Cashier ID: aj
Transaction Date: 06/19/2019
Payer Name: Pamela Diane Stark

CIVIL FILING FEE

For: Pamela Diane Stark
Case/Party: D-TNW-2-19-CV-002396-001
Amount: \$400.00

CREDIT CARD

Amt Tendered: \$400.00

Total Due: \$400.00
Total Tendered: \$400.00
Change Amt: \$0.00